

ESTTA Tracking number: **ESTTA724122**

Filing date: **02/01/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91221325
Party	Defendant JORDI NOGUES, S.L.
Correspondence Address	NICHOLAS D WELLS KIRTON MCCONKIE 60 E SOUTH TEMPLE , SUITE 1800 SALT LAKE CITY, UT 84111-1032 UNITED STATES nwells@kmclaw.com, abrimhall@kmclaw.com
Submission	Reply in Support of Motion
Filer's Name	James T. Burton
Filer's e-mail	jburton@kmclaw.com, jrupp@kmclaw.com, sglendening@kmclaw.com
Signature	/James T. Burton/
Date	02/01/2016
Attachments	PLD009 - Reply iso Motion to Reconsider.pdf(263983 bytes )

James T. Burton  
[jburton@kmclaw.com](mailto:jburton@kmclaw.com)  
Joshua S. Rupp  
[jrupp@kmclaw.com](mailto:jrupp@kmclaw.com)  
KIRTON | McCONKIE, P.C.  
60 East South Temple, Suite 1800  
Salt Lake City, Utah 84111  
Phone: (801) 328-3600  
Fax: (801) 321-4893

*Attorneys for Registrant/Applicant Jordi Nogues, S.L.*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

RED BULL GMBH,  Petitioner/Opposer,  v.  JORDI NOGUES, S.L.,  Registrant/Applicant.	<b>Consolidated Proceeding No.: 91/221,325<sup>1</sup></b>  Cancellation No: 92/061,202 (Child) Registration No.: 4,471,520 Trademark: BADTORO (and Design)  Opposition No.: 91/221,325 (Parent) Serial No.: 86/324,277 Trademark: Bull Design
---	--

**REGISTRANT / APPLICANT JORDI NOGUES, S.L.'S REPLY MEMORANDUM  
IN SUPPORT OF MOTION TO RECONSIDER AMENDED SUSPENSION ORDER**

Pursuant to Trademark Rule 2.127(a), Registrant / Applicant Jordi Nogues, S.L. (hereinafter, collectively, "Registrant"), by and through undersigned counsel, hereby respectfully files this Reply Memorandum in Support of Registrant's Motion to Reconsider the Amended Suspension Order (17 TTABVUE, the "Motion to Reconsider").<sup>2</sup>

**INTRODUCTION**

Registrant thanks the Board for its attention the instant Motion to Reconsider, particularly the opportunity to fully brief the important issues presented therein. Indeed, while Petitioner has (finally)

<sup>1</sup> (See 13 TTABVUE at 2. Unless otherwise specified, all subsequent references or citations to TTABVUE docket entries refer to docket entries within the parent opposition proceeding.)

<sup>2</sup> Unless subsequently stated otherwise, all capitalized terms used herein are defined as set forth within the Motion to Reconsider.

set forth its position in writing, Petitioner's Opposition to the Motion to Reconsider (the "Response") clearly reveals that the arguments Petitioner originally advanced during the December 11, 2015 hearing (the "Hearing") are not supported by the law. Simply put, contrary to Petitioner's reading of Trademark Rules 2.120 ("Rule 120") and 2.127 ("Rule 127"), there is no "automatic" suspension of discovery obligations upon the filing of a potentially dispositive motion under Rule 127. Instead, as set forth in the Motion to Reconsider and reiterated herein, the Board must evaluate the issue on a case-by-case basis. And, under the factual circumstances before the Board, the Original Order should be reinstated.

### **ARGUMENT**

#### **I. PETITIONER'S RESPONSE FAILS TO DISPUTE THE CENTRAL TENETS OF REGISTRANT'S MOTION TO RECONSIDER; THE MOTION TO RECONSIDER CAN, THEREFORE, EFFECTIVELY BE GRANTED AS UNOPPOSED**

Beyond the recitation of salient facts, Registrant's Motion to Reconsider sets forth two arguments: Registrant (a) challenges Petitioner's unsupported allegation of a "bright line" procedural distinction between Rules 120 and 127 and, in view of the same, (b) contends that Registrant was not afforded due process during the Hearing. (*See* 17 TTABVUE 4-9.) Each of these arguments, and Petitioner's superficial responses thereto, are addressed in turn below.

##### **a. Petitioner Has No Support For an Alleged Mandatory Suspension of Pending Discovery Obligations Under Rule 127; on the Facts Before the Board, Suspension is Unwarranted and Petitioner Has Not Shown Good Cause**

As set forth in Registrant's Motion to Reconsider, Petitioner asserted—for the first time orally at the Hearing—that Rules 120 and 127 facially include a mandatory distinction: potentially dispositive motions automatically stay any and all case matters until the motion is resolved, including discovery, while non-dispositive motions leave discovery obligations pending. (*See id.* at 4-5.)<sup>3</sup> Petitioner maintains this argument in its Opposition. (*See* 21 TTABVUE 2-3 and 6-9.)

---

<sup>3</sup> Petitioner's Response intimates that Registrant was somehow fully apprised of Petitioner's argument prior to the Hearing. (*See* 21 TTABVUE 6-7.) Tellingly, however, Petitioner does not and cannot point to any evidence which actually supports this conclusion. (*See id.*) Prior to the filing of Petitioner's Response, there is no record of Petitioner's argument or any authority in support thereof. On the contrary, the evidence of record reveals that Petitioner refused to even mention the central premise of its argument prior to the Hearing. (*See* 17 TTABVUE at Ex. A.)

Notwithstanding Petitioner's Response—Opposer's opportunity to fully support its position in writing—Rules 120 and 127 do not establish the bright line or automatic rule that Petitioner suggested during the Hearing. At the outset, as stated in TBMP 510, "[t]he filing of ... a potentially dispositive motion does not, in and of itself, operate to suspend a case; until the Board issues its suspension order, all times continue to run." TBMP § 510.03(a) (all emphases added). In lieu of a bright line rule, TBMP 510 continues: "On a case-by-case basis, the Board may find that the filing of a potentially dispositive motion provides a party with good cause for not complying with an otherwise outstanding obligation, for example, responding to discovery requests." *Id.* This approach—a case-by-case determination based on the factual showing before the Board—is also supported by controlling case law. *See Super Bakery Inc. v. Benedict*, 96 USPQ 2d 1134, 1136 (TTAB 2010) ("*Super Bakery*").<sup>4</sup>

Petitioner's Response, far from pointing out flaws in Registrant's arguments, further advances this truism. Specifically, akin to Petitioner's unsupported arguments made orally during the Hearing, Petitioner's Response—the first time Petitioner has attempted to support its position in writing—again fails to cite *any* authority for the proposition that Rule 127 mandates an automatic suspension of pending discovery obligations upon the filing of a potentially dispositive motion. (*See* 21 TTABVUE 2-3 and 6-9.) Indeed, beyond mere conclusory and vague assertions about typical "TTAB practice," "routine matters," and supposedly "well-settled rules," Petitioner's Response relies solely on the facial language of Rules 120 and 127 and *Leeds Techs. Ltd. v. Topaz Commc'ns Ltd.*, 2002 WL 1628149, 65 U.S.P.Q.2d 1303 (TTAB 2002) ("*Leeds*"). (*See id.*) Neither support Petitioner's position.

As discussed at length in Registrant's Motion to Reconsider, an appeal to the facial language of Rules 120 and 127 is unavailing. Simply put, Rule 127 is silent as to the issue of pending discovery obligations during review of a potentially dispositive motion. *See* 37 C.F.R. § 2.127(d). This fact remains so irrespective of any alleged (but unsupported) "discussion in the public record." (*See* 21 TTABVUE

---

<sup>4</sup> Petitioner asserts that *Super Bakery* somehow only applies as an exception to the rule. (*See* 21 TTABVUE n.17.) Petitioner, however, provides no authority in support of this position or the allegedly well-settled rule. (*See id.*) This is because *Super Bakery* is not an exception—it is the leading case directly on point relied on and repeatedly cited in the TBMP. *See, e.g.*, TBMP § 510.03(a) n.9.

n.10.) Moreover, the TBMP and *Super Bakery* contradict Petitioner’s reading of Rule 127. The plain language of Rule 127 says nothing of a mandatory suspension of discovery obligations pending review of a potentially dispositive motion and Section 510 of the TBMP and *Super Bakery* confirm this statutory interpretation. *See* TBMP § 510.03(a); *Super Bakery*, 96 USPQ 2d at 1136.

Similarly, *Leeds*—a case which predates *Super Bakery* by nearly a decade—far from supporting Petitioner’s supposed bright-line rule, actually supports Registrant’s reading of Rule 127. As an initial matter, *Leeds* is inapt as distinguishable from the facts presently before the Board. For example, in *Leeds*, the opposer properly and timely sought a specific suspension of discovery premised on a good cause showing pending resolution of its motion for judgment on the pleadings. *Leeds*, 2002 WL 1628149 at \*1 & \*3. Petitioner filed no such request here. Specifically, Petitioner’s Motion for Judgment on the Pleadings (the “Pleadings Motion”), without any legal or factual support whatsoever, clandestinely requests a blanket “60-day” extension of “any and all deadlines relating to discovery” *solely in the cancelation proceeding* and *solely in the contingent event that consolidation of the cancelation and opposition proceedings is denied*. (10 TTABVUE n.10.) Beyond the impropriety of Petitioner’s hidden request,<sup>5</sup> the threshold contingency no longer exists and is not subject to resurrection;<sup>6</sup> consolidation has been Ordered; Petitioner’s request has been extinguished on its own terms. (13 TTABVUE at 1-2.) (*See also* 15 TTABVUE 4-5, incorporated herein by reference.) Regardless, unlike the opposer in *Leeds*, Petitioner has made no effort to articulate good cause, let alone good cause to suspend discovery solely in the cancelation proceeding, which proceeding cannot and will not be disposed of on the Pleadings Motion. (*See* 15 TTABVUE 3-4, incorporated herein by reference.) Indeed, unlike *Leeds*, Petitioner’s Pleadings Motion facially neglects to seek *any* relief in the cancelation proceeding, let alone dispositive relief. (*See id.*) This reality also distinguishes *Leeds* from the facts before the Board.

---

<sup>5</sup> *See* TBMP § 502.02(b) (“all motions should be filed separately, or at least be captioned separately, to ensure they receive attention”; “[a] party should not embed a motion in another filing that is not routinely reviewed by the Board upon submission.”).

<sup>6</sup> This truism is in contradiction to the unsupported allegations found at footnote 5 of Petitioner’s Response—Petitioner has never sought an extension alternatively premised on the absence of a “stay” and since consolidation has already been ordered no such issue “would again be up for review” if the Original Order is reinstated. (*Compare* 10 TTABVUE n.10 and 15 TTABVUE 4-5, *with* 21 TTABVUE n.5.)

Even if *Leeds* is applicable, *Leeds* explicitly supports Registrant's Motion to Reconsider. Specifically, *Leeds* begins by reiterating the legal maxim that "[t]he filing of a potentially dispositive motion, such as [a] motion for judgment on the pleadings ..., does not automatically suspend a case, inasmuch as proceedings are not suspended until the Board issues a suspension order." *Leeds*, 2002 WL 1628149 at \*3 (emphases added). While *Leeds* ultimately found good cause *in that case* for suspending discovery premised on the opposer's specific request for such relief (something Petitioner neglected to seek here, *see* 15 TTABVUE 4-5), *Leeds* is careful to limit its holding to "this instance." *Id.* In short, consistent with Registrant's reading of Rule 127, Section 510 of the TBMP, *Super Bakery*, and *Leeds* confirms the necessity of a case-by-case evaluation based on the factual showing before the Board. And in this case, on the record before the Board, Petitioner has not properly requested a suspension of discovery pending review of the Pleadings Motion, let alone providing a good cause showing sufficient to support this missing request. (*See also* 15 TTABVUE 3-5.)

Notably, *Leeds* is also perfectly consistent with reinstatement of the Board's Original Order as requested in Registrant's Motion to Reconsider. Specifically, akin to *Leeds*, the Original Order temporarily declined to consider Registrant's Motion to Compel Petitioner's interrogatory responses and documents (11 & 12 TTABVUE). (*See* 13 TTABVUE n.2.) Nevertheless, the Original Order explicitly states that it "does not toll the time for either party to respond to any outstanding discovery...", noting that the Motion to Compel may be re-raised if warranted. (*Id.* at 3 & n.2.) Critically, the time for responding to requests for admission are treated differently under Federal Rule of Civil Procedure 36 compared with interrogatories and requests for documents under Federal Rules of Civil Procedure 33 and 34, respectively. *See* FED. RS. CIV. P. 33, 34, and 36. Specifically, absent an extension of time, requests for admission are *automatically* deemed admitted and conclusively established by operation of law upon the expiration of the response deadline. *See* FED. R. CIV. P. 36(a)(3) & (b); TBMP §§ 407.03(a); 411.03; 523.01; 524.01; *see also* 14 & 20 TTABVUE, *passim* (incorporated herein by reference). Such automatic admissions are mandatory under Federal Rule of Civil Procedure 36 and *Leeds* neither addresses nor changes this legal maxim.

In view of the foregoing, the Board's Original Order was properly issued in the first instance and can and should be reinstated in lieu of the Amended Order. Petitioner has provided no authority to the contrary. And, even if it had, the Board's Original Order is unequivocally supported by the Board's discretion. In sum, Rule 127 does not automatically toll Petitioner's discovery obligations, particularly its obligations under Federal Rule of Civil Procedure 36, and Petitioner has failed to timely request, or factually support, a suspension of any such obligations. The Original Order—as relied upon by Registrant—should be reinstated; Petitioner's failure to comply with the Original Order should not be legitimized after-the-fact to Registrant's prejudice.

**b. It is Petitioner's Conduct Contrary to TBMP § 502.06(a) that Deprived Registrant of Due Process During the Hearing; Registrant is Not Challenging the Constitutionality of TBMP § 502.06(a)**

There is no dispute that, consistent with the fundamental tenets of American jurisprudence, litigants before the Board are entitled to due process. *See, e.g., Super Bakery Inc. v. Benedict*, 665 F.3d 1263 (Fed. Cir. 2011) (“[d]ue process standards guide and limit the acts and proceedings of agency tribunals”; “an individual is entitled to fair and adequate notice of administrative proceedings that will affect his or her rights, in order that he or she may have an opportunity to defend his or her position”). It cannot be disputed that Registrant was denied due process at the Hearing. Indeed, contrary to Petitioner's wholly unsupported assertion that Registrant's “own exhibit contradicts [the absence of a disclosure of the issues and authorities to be discussed during the Hearing] where it shows evidence of [Petitioner] ... providing [Registrant] with notice of the procedural issue to be discussed” (21 TTABVUE 6), Registrant was never informed, prior to the hearing, about Petitioner's position concerning the alleged (but erroneous) distinction between Rules 120 and 127. (*See* 17 TTABVUE at Ex. A.) Beyond leaving Registrant in the dark, Petitioner also failed to inform the Board of the issues, authorities or arguments to be discussed in advance of the Hearing. (*See id.*) Indeed, as evidenced by Petitioner's failure to support the assertion reiterated above by a citation or reference to *any* actual information or evidence (21 TTABVUE 6), there is absolutely no record of Petitioner's argument or any authority in support thereof which precedes the Hearing. On the contrary, the evidence of record reveals that Petitioner flatly refused

to even mention the central premise of its argument prior to the Hearing, let alone provide any supporting authority therefore. (*See* 17 TTABVUE at Ex. A.)

The foregoing also militates against Petitioner's assertion that the Motion to Reconsider somehow merely "rehashes" arguments already before the Board. (*See* 21 TTABVUE 2.) Simply put, Petitioner's flawed assertion of a mandatory suspension of pending discovery obligations under Rule 127 (discussed, *supra*) is not fully briefed anywhere else before the Board other than in connection with the instant Motion to Reconsider.

Notwithstanding the foregoing, Petitioner's Response attempts to twist the denial of Registrant's due process into an attack on the Board, Board policy, and/or Section 502.06(a) of the TBMP. (*See* 21 TTABVUE 4-7.) The Motion to Reconsider is no such thing. Registrant does not challenge the constitutionality of Section 502.06(a) of the TBMP or the Board's authority to conduct telephonic conferences. Instead, Registrant was denied due process not by the Board but rather by the conduct of Petitioner inaugurating the Hearing. Indeed, Petitioner's conduct is at odds with the express procedural requirements presupposed within Section 502.06(a) of the TBMP. For example, while it is beyond cavil that the Board may "convene a conference to hear arguments on and to resolve [a] *motion* by telephonic conference," the threshold requirement is a pending "motion." TBMP § 502.06(a) (emphasis added). Indeed, Section 502.06(a) of the TBMP repeatedly presupposes a "statement of the nature of the issues proposed to be decided by telephonic conference" embodied within a motion filed in advance of the conference in compliance with Section 500 *et seq.* of the TBMP. *See id.* Contrary to Section 502.06(a) of the TBMP, however, Petitioner inaugurated the Hearing while simultaneously concealing the issues, authority, and relief it intended to raise. Indeed, when Petitioner inaugurated the Hearing, it had not filed anything (a motion or otherwise) seeking amendment of the Original Order and setting forth any authority for such relief. Accordingly, when this was revealed as Petitioner's ultimate objective, Registrant was surprised during the Hearing, having no advance notice or opportunity to defend its position. This is a denial of due process.



Notably, the denial of due process under the circumstances is not at odds with the Board's preference to hold an initial conference preparatory to the filing of a motion to compel. (*See* 16 TTABVUE n.1.)<sup>7</sup> This is because a motion to compel—a unique and different procedural motion altogether—is preceded by a mandatory obligation to meet and confer, an obligation incorporated within the Board's preference. (*See id.*; *see also* FED. R. CIV. P. 37(a)(1)). As a result, unlike the circumstances currently before the Board, a pre-motion-to-compel conference assumes (and requires) that the parties meet in advance and thoroughly exchange their respective arguments and supporting authorities. Notably, while the issues before the Board are distinct from a run-of-the-mill discovery issue, Registrant tried to work with Petitioner in advance of the Hearing so as to preserve due process, but Petitioner refused. (*See* 17 TTABVUE at Ex. A.) Accordingly, it is Petitioner's conduct prior to the Hearing that resulted in a denial of due process, not the Board, the Board's policy or the general application of Section 502.06(a). The instant Motion to Reconsider seeks, therefore, to have the Original Order reinstated over the Amended Order entered at the procedurally improper urging of Petitioner.

## **II. THE HEARING CLEARLY IMPACTED THE MERITS OF PENDING MOTIONS, INCLUDING DISPOSITIVE MOTIONS**

Petitioner's Response repeatedly attempts to mischaracterize the Hearing as addressing solely procedural issues having no impact on the merits of motions pending before the Board. (*See* 21 TTABVUE 1, 5, 6, and 8.) At the outset, this belies Petitioner's suggestion that the Motion to Reconsider and the underlying Hearing somehow merely "rehash" merits-based issues already briefed before the Board. (*See id.* at 2.) Petitioner cannot have it both ways – either the Hearing addressed the merits of pending motions or the Motion to Reconsider addresses issues raised for the first time during the Hearing. Regardless, and more importantly, Petitioner's position is belied by its own filings. For example, following the Hearing, Petitioner opposed Registrant's fully dispositive Motion to Dismiss on December 22, 2015. (*See* 18 TTABVUE.) Petitioner's entire argument in opposition to Registrant's

---

<sup>7</sup> Notably, Petitioner seems to erroneously believe that the Board's preference in the context of motions to compel applies to any and all motions. (*See* 21 TTABVUE 9.) This is not supported by the Board's Amended Order or any of the applicable procedural rules. (*See* 16 TTABVUE n.1.)

Motion to Dismiss is premised exclusively on the Amended Order resulting from the Hearing. (*See id.*) Indeed, Petitioner apparently believes that the Hearing resolved not only the merits of various pending motions, but that it resolved a pending *dispositive* motion. This is improper under Section 502.06(a) of the TBMP. *See* TBMP § 502.06(a) (“the Board will not decide by telephone conference any motion which is potentially dispositive”). For this reason, the Original Order should be reinstated; to hold otherwise necessarily concedes that the Hearing improperly resolved the merits of a pending dispositive motion in violation of Section 502.06(a) of the TBMP and contrary to the Board’s assurances that the merits of pending motions would not be addressed during the Hearing. (*See* 17 TTABVUE at Ex. A.)

### **III. PETITIONER’S CONJECTURE AND SPECULATION ABOUT “CONFUSION” SHOULD BE REJECTED**

Petitioner’s Response repeatedly intimates that the Board Paralegal and/or Interlocutory Attorney was “confused” when entering the Original Order. (21 TTABVUE n.3, 3, and 4.) There is simply no evidence which supports this conjecture and speculation. Indeed, all evidence is to the contrary—the Original Order facially references and cites Rule 127. (13 TTABVUE 3.) Moreover, the Original Order states that Registrant’s Motion to Compel—which was filed before the Board’s Original Order was entered—would be “given no consideration” in view of the retroactive suspension. (*Id.* at n.2.) Nevertheless, the Original Order unequivocally continues: “This suspension order does not toll the time for either party to respond to any outstanding discovery.” (*Id.* at 3.) The face of the Original Order does not suggest any “confusion;” rather, the face of the Original Order is clear, direct, and (as discussed, *supra*) fully consistent with Rule 127, Section 510 of the TBMP, *Super Bakery*, and *Leeds*. At a minimum, no alleged “confusion” appears from the face of the Original Order and Registrant, as would any litigant, relied on the Board’s Original Order believing the Board was careful in reviewing and entering the same. To penalize Registrant for relying on the Board’s Original Order would be a miscarriage of justice, providing a windfall to Petitioner for its refusal to obey the Original Order.

If anything has resulted in confusion, it is Petitioner’s Pleadings Motion, which fails to clearly inform the Board that—even if it is granted in full—it will not dispose of the cancelation proceeding. (*See*

15 TTABVUE 3-4.) Thus, any confusion about the propriety of relieving Petitioner of its discovery obligations after-the-fact is confusion Petitioner has contrived.

At bottom, however, the Original Order is fully consistent with the law; there is no confusion in its requirements and Petitioner's argument to this effect should be rejected.

#### **IV. PETITIONER'S "NEFARIOUS MOTIVATION" ARGUMENTS SHOULD BE REJECTED**

Petitioner's Response attempts to repeatedly cast aspersions on Registrant as being misleading, making false statements, having nefarious motivations, and engaging in procedural shenanigans. (21 TTABVUE 1, 4, and n.18.) Registrant takes great exception to these accusations. Registrant—a defendant in this action—seeks merely to utilize rights guaranteed by the Federal Rules of Civil Procedure, the Trademark Rules, and due process. There is nothing untoward or nefarious in this; indeed, Petitioner, for its part, also seeks to take advantage of the law—filing a Pleadings Motion months after the pleadings were complete, seeking to avoid its discovery obligations based on a hyper-technical last minute maneuver, etc. This is the crux of litigation and American jurisprudence notwithstanding Petitioner's *ad hominem* attacks. At bottom, Registrant—in bringing all of its issues before the Board—has diligently sought to comply with the applicable rules. The central tenet of the Motion to Reconsider is nothing more than a plea that the Board require the same of Petitioner. Both parties are entitled to a level playing field. To this end, the Board should reject and ignore Petitioner's suggestion to the contrary; Petitioner should be required to abide by the Original Order and the facial consequences of Federal Rule of Civil Procedure 36.

#### **CONCLUSION**

In view of the foregoing, Registrant respectfully requests reinstatement of the Original Order.

Respectfully submitted on February 1, 2016.

By: /James T. Burton/

James T. Burton  
Joshua S. Rupp  
KIRTON MCCONKIE, PC

1800 World Trade Center  
60 E. South Temple  
Salt Lake City, Utah 84111  
Tel: (801) 328-3600  
Email: [jburt@kmclaw.com](mailto:jburt@kmclaw.com)  
Email: [jrupp@kmclaw.com](mailto:jrupp@kmclaw.com)

*Attorneys for Registrant / Applicant*  
*JORDI NOGUES, S.L.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 1<sup>st</sup> day of February, 2016, I served a copy of the foregoing **REGISTRANT / APPLICANT JORDI NOGUES, S.L.'S REPLY MEMORANDUM IN SUPPORT OF MOTION TO RECONSIDER AMENDED SUSPENSION ORDER** on the attorneys for Opposer, as designated below, by placing said copy in the United States Mail, first class, postage prepaid, with an advance copy via email, addressed as follows:

Neil D. Greenstein  
[NDG@TechMark.com](mailto:NDG@TechMark.com)  
Martin R. Greenstein  
[MRG@TechMark.com](mailto:MRG@TechMark.com)  
Angelique M. Riordan  
[AMR@TechMark.com](mailto:AMR@TechMark.com)  
Leah Z. Halpert  
[LZH@TechMark.com](mailto:LZH@TechMark.com)  
**TechMark a Law Corporation**  
4820 Harwood Road, 2<sup>nd</sup> Floor  
San Jose, CA 95124-5237

By: /James T. Burton/